

IC 31-32

**ARTICLE 32. JUVENILE LAW: JUVENILE COURT
PROCEDURES**

IC 31-32-1

Chapter 1. Applicable Rules of Procedure

IC 31-32-1-1

Sec. 1. If a child is alleged to be a delinquent child, the procedures governing criminal trials apply in all matters not covered by the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-1-2

Sec. 2. If a person is charged with a crime, the laws governing criminal trials apply.

As added by P.L.1-1997, SEC.15.

IC 31-32-1-3

Sec. 3. In cases not subject to section 1 or 2 of this chapter, the Indiana Rules of Trial Procedure apply in all matters not covered by the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-2

Chapter 2. Rights of Persons Subject to Juvenile Court Jurisdiction

IC 31-32-2-1

Sec. 1. Except when a child may be excluded from a hearing under IC 31-32-6, a child is entitled to:

- (1) cross-examine witnesses;
- (2) obtain witnesses or tangible evidence by compulsory process;
- and
- (3) introduce evidence on the child's own behalf.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-2

Sec. 2. In addition to the rights described in section 1 of this chapter, a child charged with a delinquent act is also entitled to:

- (1) be represented by counsel under IC 31-32-4;
- (2) refrain from testifying against the child; and
- (3) confront witnesses.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-3

Sec. 3. (a) This section applies to the following proceedings:

- (1) Proceedings to determine whether a child is a child in need of services.
- (2) Proceedings to determine whether the parent, guardian, or custodian of a child should participate in a program of care, treatment, or rehabilitation for the child.
- (3) Proceedings to determine whether the parent or guardian of the estate of a child should be held financially responsible for any services provided to the parent or guardian or the child of the parent or guardian.
- (4) Proceedings to terminate the parent-child relationship.

(b) A parent, guardian, or custodian is entitled:

- (1) to cross-examine witnesses;
- (2) to obtain witnesses or tangible evidence by compulsory process; and
- (3) to introduce evidence on behalf of the parent, guardian, or custodian.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-4

Sec. 4. A child may not be charged with or convicted of a crime, except a crime excluded by IC 31-30-1, unless the child has been waived to a court having criminal jurisdiction.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-5

Sec. 5. A parent is entitled to representation by counsel in proceedings to terminate the parent-child relationship.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-6

Sec. 6. (a) A child may not be considered a criminal as the result of an adjudication in a juvenile court, nor may an adjudication in juvenile court be considered a conviction of a crime.

(b) An adjudication in juvenile court does not impose any civil disability imposed by conviction of a crime.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-7

Sec. 7. A child's contact with the juvenile justice system does not disqualify the child from any governmental application, examination, or appointment.

As added by P.L.1-1997, SEC.15.

IC 31-32-3

Chapter 3. Guardians Ad Litem and Court Appointed Special Advocates

IC 31-32-3-1

Sec. 1. The juvenile court may appoint a guardian ad litem or a court appointed special advocate, or both, for the child at any time.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-2

Sec. 2. A court may not appoint a party to the proceedings, an employee of a party to the proceedings, or a representative of a party to the proceedings as the:

- (1) guardian ad litem;
- (2) court appointed special advocate;
- (3) guardian ad litem program; or
- (4) court appointed special advocate program;

for a child involved in the proceedings.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-3

Sec. 3. A guardian ad litem or court appointed special advocate need not be an attorney, but the attorney representing the child may be appointed the child's guardian ad litem or court appointed special advocate.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-4

Sec. 4. The guardian ad litem or the court appointed special advocate may be represented by an attorney.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-5

Sec. 5. If necessary to protect the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate. The court may only appoint one (1) attorney under this section.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-6

Sec. 6. A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-7

Sec. 7. The guardian ad litem or the court appointed special advocate, or both, shall be considered officers of the court for the purpose of representing the child's interests.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-8

Sec. 8. A guardian ad litem or court appointed special advocate serves until the juvenile court enters an order for discharge under IC 31-34-21-11 or IC 31-37-20-8.
As added by P.L.1-1997, SEC.15.

IC 31-32-3-9

Sec. 9. If any fees arise, payment shall be made under IC 31-40.
As added by P.L.1-1997, SEC.15.

IC 31-32-3-10

Sec. 10. Except for gross misconduct, if:

- (1) the guardian ad litem;
- (2) a court appointed special advocate;
- (3) an employee of a county guardian ad litem or court appointed special advocate program; or
- (4) a volunteer for a county guardian ad litem or court appointed special advocate program;

performs duties in good faith, the guardian ad litem or court appointed special advocate is immune from any civil liability that may occur as a result of that person's performance during the time that the person is acting within the duties of the guardian ad litem or court appointed special advocate program.
As added by P.L.1-1997, SEC.15.

IC 31-32-4

Chapter 4. Right to Counsel

IC 31-32-4-1

Sec. 1. The following persons are entitled to be represented by counsel:

- (1) A child charged with a delinquent act, as provided by IC 31-32-2-2.
- (2) A parent, in a proceeding to terminate the parent-child relationship, as provided by IC 31-32-2-5.
- (3) Any other person designated by law.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-2

Sec. 2. (a) If:

- (1) a child alleged to be a delinquent child does not have an attorney who may represent the child without a conflict of interest; and
- (2) the child has not lawfully waived the child's right to counsel under IC 31-32-5 (or IC 31-6-7-3 before its repeal);

the juvenile court shall appoint counsel for the child at the detention hearing or at the initial hearing, whichever occurs first, or at any earlier time.

(b) The court may appoint counsel to represent any child in any other proceeding.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-3

Sec. 3. (a) If:

- (1) a parent in proceedings to terminate the parent-child relationship does not have an attorney who may represent the parent without a conflict of interest; and
- (2) the parent has not lawfully waived the parent's right to counsel under IC 31-32-5 (or IC 31-6-7-3 before its repeal);

the juvenile court shall appoint counsel for the parent at the initial hearing or at any earlier time.

(b) The court may appoint counsel to represent any parent in any other proceeding.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-4

Sec. 4. Payment for counsel shall be made under IC 31-40.

As added by P.L.1-1997, SEC.15.

IC 31-32-5

Chapter 5. Waiver of Rights

IC 31-32-5-1

Sec. 1. Any rights guaranteed to a child under the Constitution of the United States, the Constitution of the State of Indiana, or any other law may be waived only:

- (1) by counsel retained or appointed to represent the child if the child knowingly and voluntarily joins with the waiver;
- (2) by the child's custodial parent, guardian, custodian, or guardian ad litem if:
 - (A) that person knowingly and voluntarily waives the right;
 - (B) that person has no interest adverse to the child;
 - (C) meaningful consultation has occurred between that person and the child; and
 - (D) the child knowingly and voluntarily joins with the waiver;or
- (3) by the child, without the presence of a custodial parent, guardian, or guardian ad litem, if:
 - (A) the child knowingly and voluntarily consents to the waiver; and
 - (B) the child has been emancipated under IC 31-34-20-6 or IC 31-37-19-27, by virtue of having married, or in accordance with the laws of another state or jurisdiction.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-2

Sec. 2. The child may waive the child's right to meaningful consultation under section 1(2)(C) of this chapter if:

- (1) the child is informed of that right;
- (2) the child's waiver is made in the presence of the child's custodial parent, guardian, custodian, guardian ad litem, or attorney; and
- (3) the waiver is made knowingly and voluntarily.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-3

Sec. 3. If:

- (1) a statement made knowingly and voluntarily cannot be admitted as evidence against a child because of failure to meet the requirements of section 1 of this chapter; and
- (2) the child testifies in the child's own defense;

the statement may be admitted to impeach the child as a witness in the same manner as evidence of any other prior inconsistent statement can be admitted for impeachment.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-4

Sec. 4. In determining whether any waiver of rights during custodial interrogation was made knowingly and voluntarily, the juvenile court shall consider all the circumstances of the waiver, including the

following:

- (1) The child's physical, mental, and emotional maturity.
- (2) Whether the child or the child's parent, guardian, custodian, or attorney understood the consequences of the child's statements.
- (3) Whether the child and the child's parent, guardian, or custodian had been informed of the delinquent act with which the child was charged or of which the child was suspected.
- (4) The length of time the child was held in custody before consulting with the child's parent, guardian, or custodian.
- (5) Whether there was any coercion, force, or inducement.
- (6) Whether the child and the child's parent, guardian, or custodian had been advised of the child's right to remain silent and to the appointment of counsel.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-5

Sec. 5. A parent who is entitled to representation by counsel may waive that right if the parent does so knowingly and voluntarily.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-6

Sec. 6. Any person other than the child may waive service of summons if the person does so in writing.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-7

Sec. 7. The right of a parent, guardian, or custodian to be present at any hearing concerning the person's child is waived by the person's failure to appear after lawful notice.

As added by P.L.1-1997, SEC.15.

IC 31-32-6

Chapter 6. Trial in Open Court; Jury Trial

IC 31-32-6-1

Sec. 1. All proceedings in the juvenile court involving adults charged with:

- (1) contempt of court; or
- (2) criminal charges;

shall be tried in open court.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-2

Sec. 2. The juvenile court shall determine whether the public should be excluded from a proceeding other than a juvenile proceeding described in section 3 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-3

Sec. 3. Except as provided in section 4 of this chapter, a delinquency proceeding is open to the public whenever a petition alleging that the child has committed an act that would be murder or a felony if committed by an adult is filed under IC 31-37-10.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-4

Sec. 4. Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a child witness or child victim if the court finds that:

- (1) an allegation or a defense involves matters of a sexual nature; and
- (2) closing the proceeding is necessary to protect the welfare of a child witness or child victim.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-5

Sec. 5. In determining whether closing a proceeding is necessary to protect the welfare of a child witness or child victim, the court shall consider the following:

- (1) The nature of the allegation or defense.
- (2) The age of a child witness or child victim.
- (3) The psychological maturity of a child witness or child victim.
- (4) The desire of a child witness or child victim to testify in a proceeding closed to the public.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-6

Sec. 6. If a proceeding is closed to the public under section 4 of this chapter, the juvenile court shall:

- (1) make findings of fact concerning the closing of the proceeding; and

(2) place the exclusion order in the file of the proceedings.
As added by P.L.1-1997, SEC.15.

IC 31-32-6-7

Sec. 7. (a) Except as provided in subsection (b), all matters in juvenile court shall be tried to the court.

(b) A trial of an adult charged with a crime shall be tried to a jury unless the adult requests a bench trial.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-8

Sec. 8. In proceedings involving:

(1) the termination of the parent-child relationship; or

(2) a child in need of services;

the child may be excluded from any part of any hearing for good cause shown upon the record.

As added by P.L.1-1997, SEC.15.

IC 31-32-7**Chapter 7. Venue****IC 31-32-7-1**

Sec. 1. If a child is alleged to be a delinquent child or a child in need of services, proceedings under the juvenile law may be commenced in the county:

- (1) where the child resides;
- (2) where the act occurred; or
- (3) where the condition exists.

As added by P.L.1-1997, SEC.15.

IC 31-32-7-2

Sec. 2. A change of venue from the county may not be granted except under section 3 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-7-3

Sec. 3. (a) Upon:

- (1) the juvenile court's own motion;
- (2) the motion of a child; or
- (3) the motion of the child's parent, guardian, or custodian;

the juvenile court may assign a case to a juvenile court in the county of a child's residence at any time before the dispositional hearing.

(b) Supervision of a child may be assigned to a juvenile court in the county of the child's residence.

(c) The assigning court shall send to the receiving court certified copies of all documents pertaining to the case.

As added by P.L.1-1997, SEC.15.

IC 31-32-8**Chapter 8. Change of Judge****IC 31-32-8-1**

Sec. 1. Except as provided in section 2 of this chapter, a change of judge may be granted only for good cause shown by affidavit filed at least twenty-four (24) hours before the fact-finding hearing.

As added by P.L.1-1997, SEC.15.

IC 31-32-8-2

Sec. 2. The judge who presided over the trial at which an individual was convicted of an offense listed in IC 31-35-3-4 may not be the judge who presides over the proceedings in an action filed under IC 31-35-3 with respect to that individual.

As added by P.L.1-1997, SEC.15.

IC 31-32-9

Chapter 9. Service of Summons

IC 31-32-9-1

Sec. 1. (a) Service may be made upon any person under Rule 4.1 of the Indiana Rules of Trial Procedure.

(b) Personal service must be made at least three (3) days before the hearing to which the person is summoned.

(c) Service by mail must be sent at least ten (10) days before the hearing.

(d) Service of summons is not required if the person entitled to be served attends the hearing.

As added by P.L.1-1997, SEC.15.

IC 31-32-9-2

Sec. 2. (a) If any person other than the child cannot be served in accordance with Rule 4.1 of the Indiana Rules of Trial Procedure, the juvenile court may order service by publication in accordance with Rule 4.13 of the Indiana Rules of Trial Procedure. However, the summons must clearly inform the person being served that the person must respond not later than ten (10) days after the last publication.

(b) If:

(1) the action is to terminate the parent-child relationship; and

(2) the parent cannot be served in accordance with Rule 4.1 of the

Indiana Rules of Trial Procedure;

service must be made by publication.

As added by P.L.1-1997, SEC.15.

IC 31-32-10**Chapter 10. Discovery****IC 31-32-10-1**

Sec. 1. In cases in which a child is alleged to be a delinquent child, the law of discovery for criminal cases applies.

As added by P.L.1-1997, SEC.15.

IC 31-32-10-2

Sec. 2. In cases in which an adult is charged with a crime, the law of discovery for criminal cases applies.

As added by P.L.1-1997, SEC.15.

IC 31-32-10-3

Sec. 3. In cases other than those described by section 1 or 2 of this chapter, the law of discovery for civil cases applies.

As added by P.L.1-1997, SEC.15.

IC 31-32-11

Chapter 11. Evidence

IC 31-32-11-1

Sec. 1. The privileged communication between:

- (1) a husband and wife;
- (2) a health care provider and the health care provider's patient;
- (3) a:
 - (A) certified social worker;
 - (B) certified clinical social worker; or
 - (C) certified marriage and family therapist;and a client of any of the professionals described in clauses (A) through (C);
- (4) a school counselor and a student; or
- (5) a school psychologist and a student;

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

As added by P.L.1-1997, SEC.15.

IC 31-32-12

Chapter 12. Mental or Physical Examinations

IC 31-32-12-1

Sec. 1. If the procedures under IC 31-32-13 are followed, the juvenile court may authorize mental or physical examinations or treatment under the following circumstances:

- (1) If the court has not authorized the filing of a petition but a physician certifies that an emergency exists, the court:
 - (A) may order medical or physical examination or treatment of the child; and
 - (B) may order the child detained in a health care facility while the emergency exists.
- (2) If the court has not authorized the filing of a petition but a physician certifies that continued medical care is necessary to protect the child after the emergency has passed, the court:
 - (A) may order medical services for a reasonable length of time; and
 - (B) may order the child detained while medical services are provided.
- (3) If the court has authorized the filing of a petition alleging that a child is a delinquent child or a child in need of services, the court may order examination of the child to provide information for the dispositional hearing. The court may also order medical examinations and treatment of the child under any circumstances otherwise permitted by this section.
- (4) After a child has been adjudicated a delinquent child or a child in need of services, the court may order examinations and treatment under IC 31-34-20 or IC 31-37-19.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-2

Sec. 2. (a) The juvenile court may order temporary confinement for not more than fourteen (14) days, excluding Saturdays, Sundays, and legal holidays, to complete the mental or physical examination of a child.

(b) This section does not authorize a commitment under IC 12-26.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-3

Sec. 3. Whenever an emergency has passed or whenever medical care is no longer necessary under section 1(2) of this chapter, the child shall be returned to the child's parent, guardian, or custodian unless:

- (1) a petition has been filed; and
- (2) the court has determined under IC 31-34-5 or IC 31-37-5 that the child should remain in detention.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-4

Sec. 4. This chapter is in addition to, is not limited by, and does not limit IC 16-36-3.

As added by P.L.1-1997, SEC.15.

IC 31-32-13

Chapter 13. Issuance of Orders

IC 31-32-13-1

Sec. 1. Upon a juvenile court's motion or upon the motion of a child's parent, guardian, custodian, or guardian ad litem, a probation officer, a caseworker, the prosecuting attorney, the attorney for the county office of family and children, or any person providing services to the child or the child's parent, guardian, or custodian, the juvenile court may issue an order:

- (1) to control the conduct of any person in relation to the child;
- (2) to provide a child with an examination or treatment under IC 31-32-12; or
- (3) to prevent a child from leaving the court's jurisdiction.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-2

Sec. 2. The juvenile court may:

- (1) immediately set a matter described under section 1 of this chapter for hearing; or
- (2) consider the matter at any other proceeding or hearing authorized under the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-3

Sec. 3. The juvenile court must give notice to any person whose conduct will be regulated by an order issued under section 1 of this chapter to appear at a specified date and time concerning the relief requested under section 1 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-4

Sec. 4. The court shall issue an order under section 1 of this chapter if the court finds that good cause to issue the order is shown upon the record. The court may also consider any other evidence presented in other proceedings or hearings authorized under the juvenile law concerning the child as the basis for the issuance of the order.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-5

Sec. 5. An order issued under section 1 of this chapter must specifically describe in reasonable detail the acts or persons to be regulated under the order.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-6

Sec. 6. An order issued under section 1 of this chapter (or IC 31-6-7-14(a) before its repeal) remains in effect for one (1) year. However, the juvenile court may:

- (1) extend the order for additional one (1) year periods after an annual review of the order; and

- (2) modify or dissolve the order at any time after a showing that:
 - (A) the original circumstances concerning the order have changed; or
 - (B) new circumstances have developed.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-7

Sec. 7. If:

- (1) the juvenile court determines on the juvenile court's review of the record that an emergency exists; or
- (2) the moving party demonstrates by sworn testimony or affidavit that an emergency exists;

the juvenile court may issue an emergency order without a hearing.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-8

Sec. 8. (a) An emergency order issued under section 7 of this chapter (or IC 31-6-7-14(f) before its repeal) is valid for not more than seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays.

(b) The juvenile court may extend an emergency order issued under section 7 of this chapter (or IC 31-6-7-14(f) before its repeal) only on good cause shown upon the record for the extension.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-9

Sec. 9. When a court issues an order or an emergency order under this chapter:

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the petitioner shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.1-1997, SEC.15.

IC 31-32-14

Chapter 14. Contempt of Court

IC 31-32-14-1

Sec. 1. The juvenile court may punish a person for contempt of court under IC 34-47.

As added by P.L.1-1997, SEC.15. Amended by P.L.1-1998, SEC.167.

IC 31-32-15

Chapter 15. Appeals

IC 31-32-15-1

Sec. 1. Appeals may be taken as provided by law.

As added by P.L.1-1997, SEC.15.